THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.7007 of 2000

DATED: 20.06.2007

Between:

Smt.Sampurna Saraswati.

.. Petitioner

And

The District Collector,
Prakasam District,
and others. .. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.7007 of 2000

ORDER:

In this writ petition, the petitioner seeks a Writ of Mandamus directing the respondents 1 to 4 herein to initiate the Land Acquisition proceedings and pay compensation to him to an extent of Ac.4.50 cents in Sy.No.50/3 and 60/3 of Dondapadu village, Kandukuru Mandal, Prakasam District and also to pay the compensation for the Mango tope consisting of 210 trees, and by duly declaring the action of the respondents in not initiating the Land Acquisition proceedings as illegal and arbitrary.

2. The grievance of the petitioner is that she is the owner and possessor of the land in an extent of Ac.4.50 cents in Sy.No.50/3 and 60/3 situated at Dondapadu Village, Kandukur Mandal, Prakasam District, and the respondents have acquired her lands for the purpose of formation of protective bund to Manneru river, but they have neither initiated any proceedings under the Land Acquisition Act nor paid any compensation to her.

3. In the counter affidavit filed on behalf of the first respondent, it is stated that the land owners, whose lands eroded and merged in the river course of Manneru river, have approached the Irrigation Department and gave their oral consent to part with their lands for

formation of protective bund along with the course of Manneru river free of cost, and that in that context, an extent of Ac.1.18 cents in Sy.No.60 and 50/2 of Dondapadu village of Kandukur Mandal was occupied for the formation of the protective bund and it is not Ac.4-50 cents as contended by the petitioner.

4. The fourth respondent has filed a counter stating that the patta lands of the petitioner along with the lands of other land owners were effected by the construction of the bund, and that the relations of the petitioner, who were personally present at the spot, offered their willingness and consent to part with the said land for the formation of the bund, and the petitioner has never come forward with any objection at that time. Further, he has specifically denied the allegation of the petitioner that the bund was formed cutting across the centre of his land, and in this regard, he has also contended that the bund was formed only on the Northern boundary of the petitioner's land, adjacent to the left bank of Manner river, which effected the land of the petitioner only to the limited extent.

5. This Court, on an earlier occasion i.e., on 23.01.2006, had summoned the record, and on 17.02.2006, this Court recorded that the Government Pleader for Land Acquisition placed on record file relating to the formation of protective bund and that the file containing a letter dated 19.09.2000 addressed by the Mandal Revenue Officer to the Revenue Divisional Officer, Kandukur, whereunder it is stated that protective bund has been formed with the oral consent of the land owners as well as other land owners. In the light of the said letter addressed by the Mandal Revenue Officer, this Court, on 18.03.2006, further directed the Government to place on record the affidavit before whom the consent has been given by the land owners giving up the

right to claim compensation for the lands eroded and merged.

6. The simple controversy is as to whether the petitioner has given oral consent and parted with the land in question. Ultimately, if the petitioner has accepted that she had never given any consent for the formation of the said bund, then definitely she is entitled for compensation as provided for under the provisions of the Land Acquisition Act.

7. In this case, it is simply stated that the said formation of the protective bund is constructed with the consent of the petitioner, and though it may be oral consent, if it is true, then definitely she is not entitled for payment of any compensation. Hence, an enquiry is required, and accordingly, the Mandal Revenue Officer, Kandukur is hereby directed to summon the petitioner as well as the other land owners, whose lands were taken for the purpose of construction of the said protective bund. If, ultimately, it comes to light during the course of enquiry that the petitioner and other land owners have consented to part with the land in question, then the Mandal Revenue Officer may drop all further proceedings. However, if it is decided that none of the land owners including the petitioner have consented to the said construction of protective bund, and as the protective bund is already constructed, the Mandal Revenue Officer may refer the matter to the Collector to initiate necessary proceedings under the provisions of the Land Acquisition Act.

With the above direction, the writ petition is disposed of. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.20.06.2007
v v